

Overview

RM 10.9 Removal Action

- CERCLA-based action to remove and cover a portion of the contaminated sediments from the Passaic River adjacent to Lyndhurst
 - Will be conducted by the Cooperating Parties Group (CPG) with oversight by USEPA and its contractors
 - In-river dredging to start on July 1, 2013
 - In-river capping to conclude in October 2013
- NJDEP requests of CPG
 - Associated with authority to issue Permit Equivalents
 - Poses significant challenges on CPGs ability to keep on schedule
 - Often have questionable bases

Bases of CPG's and EPA's Concern

- NJDEP Responsiveness
 - Lack of detailed feedback to CPG on the appropriateness and completeness of its submittals
 - Can we get confirmation that no air permit or SHPO constraints are required?
 - Unreasonable requests made of CPG demonstrate lack of flexibility within DEP
 - Result in project delays rather than allowing CPG to expedite the process
 - Prime example is request for a detailed computer-driven model to be developed as part of a Flood Hazard Analysis

Regulatory Issues in AUD Process

- AUDs are how commercial stabilization facilities gain their authorization
 - In this case at least, it should not be used to also approve the dredging process in which EPA has ultimate authority
- The Waterfront Development (WFD) and Tidelands processes are designed to protect upland property interests from improper shoreline development
 - In this case, tying approval of the WFD application to the AUD process allows NJDEP to impose controls over dredging even though no equipment or dredge material will touch Upland properties
- NJDEP's stated right to approve the final disposal facility for the dredged and stabilized sediment actually lies with USEPA
- The right to approve or disapprove of out-of-state wastewater treatment facilities for management of the dredge water is tied to the operating permits of those facilities, not to NJDEP oversight